

# **"Tough on Crime" is the Problem, Not the Solution**

By MIKE STARK

**I** would like to start off by thanking the Commission for this opportunity to address you on the very important matter of the future of Maryland's death penalty. My name is Mike Stark. I am a member of the Campaign to End the Death Penalty and a resident of Silver Spring, MD. I have been active in the movement to abolish Maryland's death penalty for near 14 years.

As the Maryland General Assembly under the leadership of Governor Martin O'Malley has considered the repeal of the death penalty, representatives from the pro-death penalty lobby are again digging up the requisite psycho-killers and boogey-men from the recesses of our imagination to reinsert fear and panic into the debate.

One low point came when columnist Gregory Kane penned a column in an attempt to stoke public fears that without the death penalty, corrections officers will be "left to the tender mercies of leaders of prison gangs" like the "Black Guerilla Family." The 70's era militant group might be the subject of sensational films – but they are hardly a determining factor on the question of the future of Maryland's death penalty. Kane's argument was designed to stoke fear and does not to address issues of violence.

Scott Shellenberger, a member of your committee, has repeatedly testified before the Maryland Senate in support of the death penalty. While Shellenberger's approach is more subtle, it doesn't stray much from Kane's central argument. Shellenberger has publicly admitted a lack of evidence to support a deterrence argument in support of the death penalty. However, when he testified before the Maryland Senate he stated he believed "in the deterrence of one." Further, he went on to say, "When you're dealing with the worst of the worst of criminals, sometimes you have to come down to the simplest equations."

Shellenberger's equations might be simple, but they don't add up. Putting aside the obvious fact that we DO have the death penalty and prisoners and guards are STILL dying -- no one can seriously suggest that executing violent prisoners will prevent further violence. This badly recycled deterrence argument is an argument based on fear.

Sadly, in the past Maryland has been extremely susceptible to this kind of emotional manipulation. As over the past 30-years we have witnessed a massive transformation of the state and national economy. During that time we have seen Baltimore change from an industrial and union powerhouse to a near hollow service-economy shell. Sadly, during these painful changes it has been easier to call for increased policing, incarceration, and executions than to invest, educate, and rehabilitate. Taking a lead from national political trends, as terrible crimes regularly erupt from Baltimore's devastated communities being tough on a few, near-randomly selected criminals provided a cheap & easy substitute for job training. While the call for "toughness" in part reflects the pain of these changes, it does nothing to address them.

It is no mystery that economic hardship and social dislocation contributes to anti-social behavior. This is Sociology 101. When a hurricane strikes a coastal community incidents of domestic violence and crime go up. When economic hurricanes hit Baltimore, the result is the same. And like the experience with Katrina, those with the resources fled to places like Baltimore County – and those who remain have suffered the brunt of the effects.

Drawing for a moment from my personal experience with death row prisoner's whose families I have worked with, most of them come from Baltimore City and their lives reflect Baltimore's difficulties. With the exception of Steven Oken<sup>1</sup> – each of their lives has been characterized by economic hardship and personal violence. Most are Black and many are only a generation removed from immigration to Baltimore from the American South. For instance, **Tyrone Gilliam**, executed in 1998, had a mother who was a former Baltimore auto-worker (laid off). His father was a decorated Vietnam-vet suffering from alcoholism and chronic unemployment. **Wesley Baker**, executed in 2005, was conceived through the rape of his mother, herself a low-wage service worker in Baltimore. His mother, Delores Williams, had to rely on charity to raise the funds to provide a funeral for her executed son. She had previously lost two other sons to violence on Baltimore's streets. **Kenneth Collins'** mother is a disabled healthcare worker. **John Booth's** mother marched in the Civil Rights movement in the 1960's only to see her hopes dashed by poverty and hardship. And the list goes on.

Proponents of the death penalty are quick to cry, "Poverty and hardship are no excuse for terrible crimes." They are correct. However, the death penalty is not and will never be a vehicle for moral reckoning. The death penalty is social policy. And as such, it must be measured by outcomes – not fears. The only measurable outcome of these tough policies has been the exponential expansion of our prison population and the repeated ritual-display of state sanctioned violence through executions. Scott Shellenberger's "simple equation" only serves as a classic scapegoat – many feel good about the rituals of severe punishment, but it leaves us nowhere.

Making matters worse, these irrational tough-on-crime policies have produced a prison system in total crisis. As tens of thousands of twenty-something men are warehoused in overcrowded facilities like the one in Jessup, without access to education, physical recreation, or drug treatment services the violence that erupts against prisoners and correction officers alike is both tragic and predictable. The straining system can't handle the numbers, train the guards, or deal with the chaos that results from Maryland's "lock-'em-up or kill 'em" policies.

If a mad scientist could ring elite John Hopkins University with walls and barbed wire, increased its population many times over, halted classes, degraded the services, and

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<sup>1</sup> Steven Oken was the adopted son of David and Davida Oken. He committed three horrible murders, including the killing of his own sister-in-law. The result had devastating consequences for his entire family, especially his mother who refused to abandon her son and as a result was subjected to over a decade of public ridicule and threats for her efforts on behalf of her mentally-ill son. Davida's only and repeated request was that Steven's original sentence in Maine of Life Without Parole be enforced instead of death.

stopped all physical exercise -- in short order you'd see the same unfortunate patterns.

When it comes to violence in the prisons we do not need more of the same toughness. Genuine, practical, and rational solutions to improving prison conditions are not controversial and have demonstrated proven results but they mean abandoning fear for reason. Remedies championed by academics and prison officials alike include restoring Pell grants, expanding educational and treatment services, and improving living conditions. Outside of our expanding prison walls, it is clear we need to heed the call of Governor O'Malley to move away from the simple minded logic of incarceration and executions and begin addressing anti-social behavior from a rational standpoint.<sup>2</sup>

The politics of irrational fear have created both a broken death penalty system and a prison system in crisis. What is needed now is not more of the same, but a restoration of practical reason and hope.

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<sup>2</sup> It is also for this reason that while I support a repeal to the death penalty – I do not lend my voice to calls in active support for the sentence of Life Without Parole (LWOP). Like the death penalty, this sentence does not address root issues of economic and social dislocation. Like the death penalty LWOP robs both the prisoner and the public of hope for rehabilitation and redemption. Like the death penalty, LWOP will undoubtedly be applied in a discriminatory fashion. Yes – it is an important step forward from state-killing, but it is not a genuine alternative.